

§ 120.43

other items that meet the definition of that term in accordance with §734.3 of the EAR. The EAR is found at 15 CFR parts 730 through 774.

[78 FR 22755, Apr. 16, 2013]

§ 120.43 [Reserved]

§ 120.44 Foreign defense article or defense service.

Foreign defense article or defense service means any article or service described on the U.S. Munitions List of non-U.S. origin. Unless otherwise provided in this subchapter, the terms *defense article* and *defense service* refer to both U.S. and foreign origin defense articles and defense services described on the U.S. Munitions List. A defense article or defense service is determined exclusively in accordance with the Arms Export Control Act and this subchapter, regardless of any designation (either affirming or contrary) that may be attributed to the same article or service by any foreign government or international organization.

[78 FR 52686, Aug. 26, 2013]

§ 120.45 End-items, components, accessories, attachments, parts, firmware, software, systems, and equipment.

(a) An *end-item* is a system, equipment, or an assembled article ready for its intended use. Only ammunition or fuel or other energy source is required to place it in an operating state.

(b) A *component* is an item that is useful only when used in conjunction with an end-item. A major component includes any assembled element that forms a portion of an end-item without which the end-item is inoperable. A minor component includes any assembled element of a major component.

(c) *Accessories* and *attachments* are associated articles for any component, equipment, system, or end-item, and which are not necessary for its operation, but which enhance its usefulness or effectiveness.

(d) A *part* is any single unassembled element of a major or a minor component, accessory, or attachment which is not normally subject to disassembly without the destruction or the impairment of designed use.

22 CFR Ch. I (4–1–15 Edition)

(e) *Firmware* and any related unique support tools (such as computers, linkers, editors, test case generators, diagnostic checkers, library of functions, and system test diagnostics) directly related to equipment or systems covered under any category of the U.S. Munitions List are considered as part of the end-item or component. Firmware includes but is not limited to circuits into which software has been programmed.

(f) *Software* includes but is not limited to the system functional design, logic flow, algorithms, application programs, operating systems, and support software for design, implementation, test, operation, diagnosis and repair. A person who intends to export only software should, unless it is specifically enumerated in §121.1 of this subchapter (e.g., USML Category XIII(b)), apply for a technical data license pursuant to part 125 of this subchapter.

(g) A *system* is a combination of parts, components, accessories, attachments, firmware, software, equipment, or end-items that operate together to perform a function.

Note to paragraph (g): The industrial standards established by INCOSE and NASA provide examples for when commodities and software operate together to perform a function as a system. References to these standards are included in this note to provide examples for when commodities or software operate together to perform a function as a system. See the INCOSE standards for what constitutes a system at: <http://g2sebok.incose.org/app/mssv/asset.cfm?ID=INCOSE%20G2SEBOK%202.00&ST=F>, and in INCOSE SE Handbook v3.1 2007; ISO/IEC 15288:2008. See the NASA standards for examples of what constitutes a system in NASA SE Handbook SP-2007-6105 Rev 1.

(h) *Equipment* is a combination of parts, components, accessories, attachments, firmware, or software that operate together to perform a function of, as, or for an end-item or system. Equipment may be a subset of an end-item based on the characteristics of the equipment. Equipment that meets the definition of an end-item is an end-item. Equipment that does not meet

Department of State

§ 121.1

the definition of an end-item is a component, accessory, attachment, firmware, or software.

[79 FR 61223, Oct. 10, 2014]

PART 121—THE UNITED STATES MUNITIONS LIST

ENUMERATION OF ARTICLES

Sec.

121.1 The United States Munitions List.

121.2-121.15 [Reserved]

121.16 Missile Technology Control Regime Annex.

AUTHORITY: Secs. 2, 38, and 71, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2651a; Pub. L. 105-261, 112 Stat. 1920; Section 1261, Pub. L. 112-239; E.O. 13637, 78 FR 16129.

SOURCE: 58 FR 39287, July 22, 1993, unless otherwise noted.

ENUMERATION OF ARTICLES

§ 121.1 The United States Munitions List.

(a) The following articles, services, and related technical data are designated as defense articles and defense services pursuant to sections 38 and 47(7) of the Arms Export Control Act. Changes in designations will be published in the FEDERAL REGISTER. Information and clarifications on whether specific items are defense articles and services under this subchapter may appear periodically through the Internet Web site of the Directorate of Defense Trade Controls.

(b)(1) *Order of review.* In order to classify your article on the U.S. Munitions List, you should begin with a review of the general characteristics of your item. This will usually guide you to the appropriate category on the U.S. Munitions List. Once the appropriate category is identified, you should match the particular characteristics and functions of your article to a specific entry within the appropriate category.

(2) *Composition of an entry.* Within each U.S. Munitions List category, defense articles are described by an alpha paragraph designation. These designations may include subparagraph(s) to further define the described defense article. Each U.S. Munitions List category starts with end-platform des-

ignations followed by major systems and equipment, and parts, components, accessories, and attachments. Most U.S. Munitions List categories contain an entry on technical data (see § 120.10 of this subchapter) and defense services (see § 120.9 of this subchapter) related to the defense articles described in that U.S. Munitions List category.

(3) *Significant military equipment.* An asterisk may precede an entry in a U.S. Munitions List category. The asterisk means the enumerated defense article is deemed to be “Significant Military Equipment” to the extent specified in § 120.7 of this subchapter. Note that technical data directly related to the manufacture or production of any defense articles enumerated in any category designated as Significant Military Equipment (SME) is also designated as SME.

(c) *Missile Technology Control Regime (MTCR) Annex.* Inclusion in § 121.16 of this subchapter, or annotation with the parenthetical “(MT)” at the end of a U.S. Munitions List paragraph, indicates those defense articles and defense services that are on the MTCR Annex. See § 120.29 of this subchapter.

(d) *Specially designed.* When applying the definition of specially designed (see § 120.41 of this subchapter), follow the sequential analysis set forth as follows:

(1) if your commodity or software is controlled for reasons other than having a specially designed control parameter on the U.S. Munitions List, no further review of the definition of specially designed is required.

(2) if your commodity or software is not enumerated on the U.S. Munitions List, it may be controlled because of a specially designed control parameter. If so, begin any analysis with § 120.41(a) and proceed through each subsequent paragraph. If a commodity or software would not be controlled as a result of the application of the standards in § 120.41(a), then it is not necessary to work through § 120.41(b).

(3) if a commodity or software is controlled as a result of § 120.41(a), then it is necessary to continue the analysis and to work through each of the elements of § 120.41(b).

(4) commodities or software described in any § 120.41(b) subparagraph are not